

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FLORZELL THOMAS JR.,

No. C 07-424 MHP (pr)

Petitioner,

ORDER OF DISMISSAL

v.

D. L. RUNNELS, warden; et al.,

Respondents.

Florzell Thomas, Jr., has filed a petition for writ of habeas corpus that is incomprehensible. He currently is in custody in the High Desert State Prison in Susanville, in Lassen County, within the venue of the Eastern District of California, and was convicted in Los Angeles County, within the venue of the Central District of California. Venue is proper in a habeas action in either the district of confinement or the district of conviction, 28 U.S.C. § 2241(d); however, a petition challenging the execution of a sentence is preferably heard in the district of confinement and a petition challenging a conviction is preferably heard in the district of conviction. Habeas L.R. 2254-3(a). Venue is not proper in the Northern District for Thomas to challenge his conviction or the execution of his sentence. An action filed in the wrong venue may be dismissed or transferred to the proper venue. See 28 U.S.C. § 1406(a). Although the court frequently transfers prisoner cases to the proper venue when they have been filed in the wrong venue, it will not do so here because the court cannot understand enough of the petition to determine whether it challenges the conviction or the execution of the sentence and therefore cannot determine the proper venue.

1 Accordingly, pursuant to 28 U.S.C. § 1406(a) this action is DISMISSED. This
2 dismissal is without prejudice to petitioner filing a new action in the proper venue.
3 Petitioner's in forma pauperis application is DENIED. The clerk shall close the file.

4 IT IS SO ORDERED.

5 DATED: April 10, 2007


Marilyn Hall Patel
United States District Judge